

REMARKS/ARGUMENTS

Reconsideration and withdrawal of all outstanding grounds of rejection are respectfully requested in light of the above amendments and the remarks which follow.

The Examiner has now rejected claim 24 under 35 U.S.C. 102(b) as anticipated by Apps et al. (Apps '277). Central to the propriety of the Examiner's rejection is the contention that Apps '277 discloses laterally spaced wedge elements as claimed. In this regard, the Examiner is apparently relying on the wedge-shaped vertical side edges of handles 90 best seen on the right and left hand sides of the crate as viewed in Figure 1.

While these so-called "wedge elements" are nothing like the claimed plurality of wedge elements, applicant has amended claim 24 to more clearly distinguish over Apps '277 by requiring that the laterally spaced wedge elements be located along the pair of side walls of the crate, on outside surfaces of selected ones of said columns but fewer than all of said columns along said pair of side walls. Clearly, there are no such wedge elements on those columns in Apps '277 that are located along the side walls of the crate. Moreover, since Apps nowhere suggests the possibility of locating additional handles along the crate side walls, it would not have been obvious to one of ordinary skill in the art to locate any such handle edge surfaces along the side walls of the crate. Accordingly, claim 24 is now believed to be in condition for immediate allowance.

The Examiner has rejected claims 1-11 under 35 U.S.C. 103 as unpatentable over Apps '277 in view of Apps '279. According to the Examiner, Apps '279 discloses ribs (extending between ribs 56 in Figures 2 and 4) that connect lower portions of the side and

end walls to the crate bottom. The Examiner contends that these ribs are in groups of two and three ribs, each group arranged directly below a respective cut-out and extending vertically along the peripheral wall from each cut-out to the crate bottom. The Examiner concludes that it would have been obvious to add such ribs to Apps '277 to provide additional reinforcement in the lower portion of the side and end walls.

The groups of three ribs, adjacent each bottle supporting platform, do indeed connect the crate bottom to the side wall. However, claim 1 as amended requires that lower portions of the side and end walls be connected to the crate bottom by groups of three inwardly directed ribs, one of the groups of three ribs arranged directly below each cut-out, with all three ribs of each group extending vertically along the peripheral wall from each of the cut-outs to the crate bottom.

In Apps '279, the groups of three ribs relied upon by the Examiner each have a height apparently no greater than the thickness of the crate bottom. This is not only apparent from Figure 2, but is perhaps most clearly seen in Figures 12 and 13 where the panels between the columns on the side walls are smooth and flat beneath the cut-outs, with no surface relief as otherwise would be the case if the ribs extended vertically from the crate bottom to the side wall cut-outs. Moreover, even if the two outside ribs of the group of three ribs (see again Figure 13) are considered as integral with the column side surfaces extending vertically upwardly on either side of the cut-out, it is clear that at least the center rib extends no higher than the crate bottom. Accordingly, the arrangement as now required by independent claim 1 is nowhere disclosed nor even remotely suggested

by Apps '279 alone or in combination with Apps '277. Accordingly, all of claims 1-11 are also now in condition for immediate allowance.

The Examiner has rejected claims 12, 15-20, 22 and 23 under 35 U.S.C. 103 as unpatentable over Apps '277 in view of Hammett '487. According to the Examiner, it would have been obvious to add a connection between the handle and the crate bottom in the middle of the handle to Apps '277 in view of Hammett's disclosure of column 24 in the middle of each end wall handle portion extending between the handle portion and the crate bottom wall.

Independent claim 12 has been amended to incorporate the subject matter of dependent claim 23 along with additional limitations requiring that the side walls be formed with a plurality of laterally spaced wedge slides located on outside surfaces of selected ones of said columns that provide a smooth transition from said upper portions to said lower portion of said side walls. Here again, neither reference alone or viewed in combination discloses the incorporation of laterally spaced wedge slides along the side walls of the crate. Therefore, claim 12 as well as claims 15 and 16 that depend therefrom are also in condition for allowance.

With respect to independent claim 17, applicant has amended that claim to incorporate the subject matter of dependent claim 18 along with further limitations, so that the claim now requires that lower portions of the peripheral wall be connected to the crate bottom by three substantially L-shaped ribs located directly beneath respective ones of said cut-outs, each of the three substantially L-shaped ribs having vertical components

that extend vertically along said peripheral wall from said respective ones of said cut-outs to said crate bottom. As already noted, none of the prior art references cited by the Examiner discloses this arrangement of three substantially L-shaped ribs. Accordingly, claims 17, 19, 20 and 22 are also now in condition for allowance. Note that dependent claim 18 has been cancelled and claim 19 has been amended to change its dependency from claim 18 to claim 17.

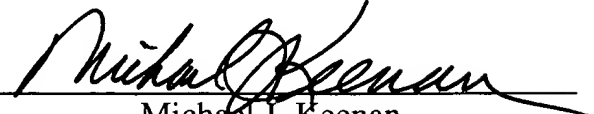
Since the amendments place the application in condition for immediate allowance, and since the amendments could not previously have been made in light of new grounds of rejection applied by the Examiner in the outstanding Official Action and/or by reason of applicant's failure to fully appreciate the Examiner's interpretation of the prior art. Entry of the amendment is therefore fully consistent with 37 CFR 1,116(c).

The application including remaining claims 1, 3-12, 15-17, 20, 22 and 24, is now in condition for allowance, and early passage to issue is requested. In the event, however, any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

HAMMETT
Appl. No. 09/978,576
December 3, 2003

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Michael J. Keenan
Reg. No. 32,106

MJK:ljb
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100